

# **Exhibit 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
CASE NO. 3:20-cv-00451-CEA-DCP

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SNMP RESEARCH, INC. and SNMP RESEARCH )  
INTERNATIONAL, INC., )  
Plaintiffs, )  
vs. )  
BROADCOM INC., BROCADE COMMUNICATIONS )  
SYSTEMS LLC, and EXTREME NETWORKS, INC., )  
Defendants. ) VOLUME: I  

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 ) EXHIBITS: 53-103

VIDEOTAPED DEPOSITION OF EXTREME  
NETWORKS, INC. BY MICHAEL J. FITZGERALD, called as  
a witness by and on behalf of the Plaintiffs,  
pursuant to the applicable provisions of the  
Federal Rules of Civil Procedure, Rule 30(b)(6),  
before P. Jodi Ohnemus, RPR, RMR, CRR, CA-CSR  
#13192, NH-LSR #91, MA-CSR #123193, and Notary  
Public, within and for the Commonwealth of  
Massachusetts, at Sherin and Lodgen, 101 Federal  
Street, Boston, Massachusetts, on Thursday,  
February 1, 2024, commencing at 8:36 a.m.

PAGES: 1-287

PAGES 83-96 ARE MARKED CONFIDENTIAL AND  
219-221 ARE MARKED HIGHLY CONFIDENTIAL

1	Objections to SNMP Research, Inc.'s First	10:23:56
2	Set of Interrogatories to Extreme	10:23:56
3	Networks, Inc.)	10:23:59
4	Q. So, Mr. Fitzgerald, I've handed you	10:24:03
5	Extreme Networks Inc.'s Eighth Supplemental	10:24:06
6	Responses and Objections to SNMP Research Inc.'s	10:24:09
7	First Set of Interrogatories to Extreme Networks	10:24:12
8	Inc.	10:24:14
9	Have you reviewed this document before?	10:24:16
10	A. I've seen the document.	10:24:20
11	Q. Okay. Can you turn to page 52.	10:24:28
12	MR. PRABHAKAR: For the record, can we	10:24:31
13	designate this portion of the transcript as	10:24:32
14	confidential, since Exhibit 58 is marked	10:24:35
15	"Confidential"?	10:24:38
16	MR. WOOD: Yes.	10:24:41
17	A. Could you repeat the page number?	10:24:43
18	Q. 52. So do you see it's interrogatory No.	10:24:44
19	15. It says (as read):	10:24:56
20	"Identify each individual who answered or	10:24:58
21	contributed to any of the answers to these	10:24:59
22	interrogatories. Designating the number of each	10:25:02
23	interrogatory for which such person's furnished	10:25:05
24	information."	10:25:07
25	Do you see that?	10:25:08

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1	A. I do.	10:25:08
2	Q. Okay. And, then, if you will turn to page	10:25:10
3	55. The seventh supplemental response to	10:25:16
4	interrogatory No. 15.	10:25:24
5	Do you see that?	10:25:25
6	A. I do.	10:25:25
7	Q. Do you see your name listed there? And it	10:25:26
8	says you provided information for interrogatories	10:25:30
9	No. -- Nos. 1, 3, 5, 6, and 9. Is that --	10:25:34
10	A. I see that.	10:25:40
11	Q. Yes. Did you provide information for	10:25:41
12	interrogatories Nos. 1, 3, 5, 6, and 9? And you	10:25:45
13	can look at those.	10:25:54
14	A. Oh. (Witness reviews document.)	10:25:56
15	MR. PRABHAKAR: I'm going to object to the	10:26:05
16	extent that the witness may have provided factual	10:26:07
17	information but the response itself may have been	10:26:09
18	prepared by counsel.	10:26:11
19	And also to the extent interrogatories 5,	10:26:19
20	6, and 9 ask for information that's out of scope	10:26:25
21	for this particular witness.	10:26:31
22	So to make a clear objection,	10:26:37
23	interrogatories No. 5, 6, and 9 refer to products	10:26:40
24	identified in interrogatories Nos. 1 and 2. With	10:26:44
25	respect to products identified in response to 1 and	10:26:48

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1       2 is within the scope of this deposition. The rest       10:26:51  
2       of the response is out of scope.       10:26:55  
3           A.     Okay. The answer?       10:27:27  
4           Q.     Yes.       10:27:27  
5           A.     So -- so I agree with 1. With 5, 6, and       10:27:28  
6       9, I provided baseline information to that, which       10:27:32  
7       would be the SKU lists. Finance was involved with       10:27:35  
8       validating, pulling certain revenue numbers. And I       10:27:39  
9       didn't construct the responses, but I was involved       10:27:41  
10      with the generation of those reports.       10:27:43  
11                 For No. 3, I would confess I was not       10:27:46  
12      involved in identifying specific module names       10:27:48  
13      and/or module revision numbers of the software that       10:27:52  
14      was used in the product. I identified the SKUs in       10:27:55  
15      which, in general, the EXOS and/or EOS operating       10:27:59  
16      systems were used.       10:28:01  
17           Q.     Okay. So let's -- so turn to page 3,       10:28:05  
18      which is interrogatory No. 1. It says (as read):       10:28:10  
19                 "Identify all Extreme products that       10:28:20  
20      contain, use or are otherwise associated with SNMP       10:28:21  
21      Research software either as manufacturer or as a       10:28:25  
22      result of a software or firmware installation or       10:28:28  
23      update."       10:28:30  
24                 Can you -- did I read that correctly?       10:28:33  
25           A.     Yes. Yes.       10:28:39

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1           Q.    Okay.  Can you tell me what information           10:28:40  
2           you provided for Interrogatory No. 1?                           10:28:42  
3           A.    I provided the SKU lists that we looked at   10:28:47  
4           in the prior two exhibits for EOS and EXOS                   10:28:52  
5           operating -- the products that ran or were                   10:28:56  
6           associated with the families that ran the EXOS and       10:28:59  
7           the EOS operating systems.                                   10:29:01  
8           Q.    Okay.  Can you turn to page 7 of this.           10:29:04  
9           7 -- so the -- the first sentence in the 6th           10:29:20  
10          supplemental response to interrogatory No. 1.           10:29:24  
11                   Do you see that?                                   10:29:27  
12          A.    Page 7?   10:29:30  
13          Q.    Yes.   10:29:30  
14          A.    Oh, I'm sorry.  It was -- 6 -- the first       10:29:32  
15          sentence in the 6th supplemental response.           10:29:35  
16          Q.    Yes.   10:29:36  
17          A.    Okay.  I see that.                                   10:29:37  
18          Q.    Where it says (as read):                           10:29:37  
19                   "Extreme identifies the following business   10:29:39  
20          records pursuant to federal rule of civil procedure   10:29:40  
21          33D as identifying products that Extreme did not       10:29:42  
22          acquire from Brocade and that include software that   10:29:45  
23          appears to have originated from SNMPR."               10:29:50  
24                   And then it cites EXTREME-00722449 in the       10:29:54  
25          pivot table and EXTREME-00722452 in the pivot           10:30:01

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1	table.	10:30:08
2	Did I read that correctly?	10:30:10
3	A. Yes.	10:30:11
4	Q. Okay. And those -- that -- those two	10:30:13
5	documents are Exhibits 56 and 57 that we just	10:30:18
6	reviewed previously; correct?	10:30:22
7	MR. PRABHAKAR: Objection. Form.	10:30:25
8	A. You're telling me. If you tell me they're	10:30:26
9	the same, I -- I don't see those numbers on these	10:30:28
10	documents. So...	10:30:31
11	Q. Uhm.	10:30:34
12	A. I see 56 and 57 on the stickers on those	10:30:34
13	documents. I can't map those Extreme numbers to	10:30:37
14	those. If someone should tell me they're the same,	10:30:39
15	I have no reason not to believe you.	10:30:42
16	Q. Well, let me ask you this: So it refers	10:30:44
17	to the pivot table?	10:30:46
18	A. Yeah.	10:30:47
19	Q. And do you agree that the pivot table in	10:30:48
20	Exhibits 56 and 57 identifies products -- let me	10:30:54
21	see here -- so let me just back -- let me start	10:31:14
22	over.	10:31:18
23	So interrogatory No. 1 is -- the purpose	10:31:19
24	is to (as read):	10:31:23
25	"Identify all Extreme products that	10:31:24

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1 contain, use, or are otherwise associated with SNMP 10:31:25  
2 Research software either as manufactured or as a 10:31:28  
3 result of a software or firmware installation or 10:31:31  
4 update." 10:31:33

5 So then the answer to interrogatory No. 1 10:31:36  
6 in the sixth supplemental response identifies two 10:31:40  
7 pivot tables as containing a list of products that 10:31:45  
8 are responsive to interrogatory No. 1. 10:31:50

9 So my question is are the pivot tables in 10:31:53  
10 Exhibits 56 and 57 -- identify products that are 10:31:56  
11 responsive to interrogatory No. 1? 10:32:00

12 MR. PRABHAKAR: Objection. To the extent 10:32:02  
13 the representation is that the sixth supplemental 10:32:06  
14 response is the entire response to interrogatory 1. 10:32:08

15 But you can answer if you know. 10:32:10

16 A. Yes. 10:32:14

17 Q. Thank you. Okay. 10:32:16

18 Are there any other -- does Extreme know 10:32:25  
19 of any other EOS or EXOS products that are not 10:32:29  
20 listed in Exhibits 56 and 57 that contain SNMP 10:32:33  
21 Research software? 10:32:39

22 MR. PRABHAKAR: Objection. Form. 10:32:40

23 A. Absent any subsequent questions and 10:32:43  
24 answers that happened after that, to the best of my 10:32:45  
25 knowledge, those are accurate. 10:32:49

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1           Q.    Okay.  So Exhibit 56 and 57, as far as you   10:32:51  
2   know, contain a complete list of the EOS and EXOS       10:32:56  
3   products that contain SNMP Research software?           10:33:00  
4           A.    Again, absent there were a small number --   10:33:04  
5   as in a few emails -- about what about this, what       10:33:06  
6   about that?   10:33:09  
7           Q.    Yeah.   10:33:09  
8           A.    No, at the SKU level, those are accurate.   10:33:10  
9           Q.    Okay.  Thank you.                           10:33:12  
10                   And when you refer to these emails, did     10:33:16  
11   you just get some specific request about some           10:33:20  
12   specific SKUs like what --                                 10:33:22  
13           A.    It was --                                     10:33:24  
14           Q.    Explain to me what these emails are.       10:33:25  
15                   MR. PRABHAKAR:  Okay.  I'm going to object   10:33:27  
16   to the extent answering this question requires you       10:33:30  
17   to state facts about emails and communications           10:33:33  
18   received from counsel.  To the extent that you have       10:33:38  
19   to defer to those emails and communications, I'm         10:33:42  
20   going to instruct you not to answer.                     10:33:45  
21                   If you received other emails and           10:33:47  
22   communications that were not from counsel, you can       10:33:49  
23   testify about that.   10:33:51  
24                   THE WITNESS:  Okay.                       10:33:52  
25           Q.    Okay.   10:33:53

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1           A.     They were sold -- they were -- oh. They           10:33:54  
2     were solely from counsel, and it would be a           10:33:57  
3     question about a specific SKU.           10:33:59  
4           Q.     Okay. About how many SKUs did you get           10:34:05  
5     asked about?           10:34:07  
6                   MR. PRABHAKAR: Objection. Calls for           10:34:07  
7     attorney-client privileged information.           10:34:10  
8                   I'm going to instruct the witness not to           10:34:10  
9     answer.           10:34:12  
10          Q.     Have you identified any other SKUs for           10:34:19  
11     ES -- EOS or EXOS products that contain SNMP           10:34:25  
12     Research software that are not on Exhibits 56 and           10:34:29  
13     57?           10:34:31  
14                   MR. PRABHAKAR: Objection. Calls for           10:34:32  
15     attorney-client privileged information, work           10:34:35  
16     product.           10:34:36  
17                   I'm going to instruct the witness not to           10:34:36  
18     answer.           10:34:38  
19                   MR. WOOD: I don't -- no, that -- I           10:34:38  
20     don't -- I don't agree with you.           10:34:41  
21                   So I'm asking -- I'm asking him if he has           10:34:43  
22     identified any other SKUs that are not on Exhibit           10:34:46  
23     56 or 57 that contain SNMP Research software.           10:34:49  
24                   MR. PRABHAKAR: Okay. So to the extent           10:34:54  
25     the witness has identified SKUs independent of           10:34:58

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1	communication from counsel, you can answer that	10:35:07
2	question.	10:35:11
3	If you have identified SKUs on request of	10:35:13
4	counsel, I'm going to instruct you not to answer	10:35:15
5	that question.	10:35:17
6	Is that better?	10:35:19
7	Q. Well, go ahead and answer, and I'll ask	10:35:21
8	it --	10:35:23
9	A. No, I have not identified any.	10:35:23
10	Q. Okay. Thank you.	10:35:26
11	Are you familiar with the term "SLX"?	10:35:28
12	A. Yes.	10:35:33
13	Q. What does it mean?	10:35:34
14	A. It's a product family name that came over	10:35:36
15	from the Brocade acquisition.	10:35:41
16	Q. Okay. And are you familiar with the term	10:35:42
17	"VDX"?	10:35:44
18	A. Yes.	10:35:45
19	Q. And what -- what does it mean?	10:35:45
20	A. It's a product family name that came over	10:35:48
21	from Brocade.	10:35:49
22	Q. Okay. Then, as a part of your preparation	10:35:54
23	for the deposition today, did you also review which	10:35:56
24	SLX and VDX products have SNMP Research software?	10:36:00
25	A. I have.	10:36:03

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1 Extreme's supplemental response. I don't remember 10:44:51  
2 which number now that you show me. There's a 9 and 10:44:53  
3 there's an 11. 10:44:56  
4 Q. Yeah. 10:44:56  
5 A. In general, I'll say I've seen it and the 10:44:58  
6 material aspects of it that apply. 10:45:02  
7 Q. Okay. If you could turn over to page 3, 10:45:08  
8 interrogatory No. 6. 10:45:09  
9 Do you see it says (as read): 10:45:20  
10 "With respect to each product identified 10:45:21  
11 in response to interrogatory Nos. 1 and 2, please 10:45:22  
12 identify the number of products shipped, revenue, 10:45:24  
13 and cost related to each and every such product by 10:45:27  
14 quarter from October 1st, 2017, to the present, 10:45:33  
15 including but not limited to." 10:45:35  
16 Lists some other -- other things. 10:45:40  
17 Is that correct what I read? 10:45:52  
18 MR. PRABHAKAR: Objection. Out of scope. 10:45:54  
19 A. I read the same. 10:45:56  
20 Q. Okay. If you could turn over to the next 10:46:06  
21 page, page 4. 10:46:07  
22 It says for the last full paragraph (as 10:46:15  
23 read): 10:46:15  
24 "For each product identified in response 10:46:21  
25 to interrogatory Nos. 1 and 2, Extreme identifies 10:46:23

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1 the number of products shipped, revenue and cost by 10:46:26  
2 quarter from date of first sale through end of 10:46:28  
3 Extreme's financial year 2023 (June 30th, 2023) 10:46:30  
4 with reference to appendices E-1, F-1 and G-1 that 10:46:36  
5 are attached to this response as if they are 10:46:42  
6 incorporated herein." 10:46:44  
7 Read that correctly? 10:46:47  
8 A. Uh-huh -- yes. 10:46:48  
9 THE WITNESS: I'm sorry. 10:46:52  
10 A. Yes. 10:46:53  
11 Q. So if you could turn to page 7, list of 10:46:54  
12 these appendices. 10:47:02  
13 A. Page what? 10:47:05  
14 Q. Page 7. It's now... 10:47:06  
15 A. Oh, appendices, yeah. 10:47:10  
16 Q. Yeah, I guess it's -- there's appendix E-1 10:47:12  
17 and the pages are no longer labeled when you get 10:47:15  
18 there, but if you turn to the next page, it says 10:47:18  
19 (as read): 10:47:18  
20 "EOS volume revenue cost and gross 10:47:21  
21 margin"? 10:47:22  
22 A. Uh-huh. 10:47:22  
23 MR. PRABHAKAR: Objection. Scope. 10:47:23  
24 A. Yes. 10:47:24  
25 Q. Did you provide the data for this exhibit? 10:47:26

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1 MR. PRABHAKAR: Objection. Out of scope. 10:47:31

2 A. I didn't provide this page formatted this 10:47:33

3 way. 10:47:36

4 Q. Did you provide the data for this exhibit? 10:47:36

5 MR. PRABHAKAR: Objection. Out of scope. 10:47:39

6 A. I provided the list of SKUs that ran the 10:47:42

7 operating system to counsel. What counsel did it 10:47:45

8 with [verbatim] is up to counsel to reply. 10:47:48

9 Q. Okay. So if these -- if you could pull 10:47:50

10 out Exhibit 56. The columns across the top of 10:48:07

11 Exhibit -- on Exhibit 59, appendix E-1 -- are 10:48:36

12 labeled "Datacenter 7100," "K-Series," "Matrix N," 10:48:39

13 "S-Series," "S-Series SSA." 10:48:45

14 Correct? 10:48:48

15 A. Correct. 10:48:49

16 Q. And those are the same products that are 10:48:49

17 identified in the pivot table of Exhibit 56; 10:48:54

18 correct? 10:48:57

19 A. Correct. 10:48:59

20 Q. And so are you saying, then, the -- the 10:49:00

21 SKUs that were used to generate the data in this 10:49:05

22 appendix E-1 are the SKUs you provided in Exhibit 10:49:10

23 56? 10:49:13

24 MR. PRABHAKAR: Objection. Out of scope. 10:49:14

25 Objection to the extent the response has not been 10:49:17

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1 prepared by the witness. 10:49:21

2 You can answer if you know. 10:49:24

3 A. I provided the list of SKUs that ran the 10:49:26

4 operating -- the EOS operating system as described 10:49:28

5 in this Exhibit 56 with the headings as shown there 10:49:31

6 to counsel. 10:49:35

7 Q. Okay. And, now, you previously testified 10:49:37

8 part of your duties in -- in litigation support and 10:49:39

9 for analysts is running unit reports for different 10:49:43

10 product lines; correct? 10:49:49

11 A. Yes. 10:49:50

12 MR. PRABHAKAR: Objection. Misstates 10:49:51

13 prior testimony. 10:49:52

14 THE WITNESS: Sorry. Sorry. 10:49:53

15 A. Yes. 10:49:54

16 Q. So didn't -- and this first -- the first 10:49:54

17 page of appendix E-1 is -- do you see how it's 10:49:59

18 labeled -- appendix E-1 in Exhibit 59, do you see 10:50:04

19 how it's labeled "Units"? 10:50:10

20 A. Yes. 10:50:12

21 Q. Okay. 10:50:14

22 MR. PRABHAKAR: Objection. Out of scope. 10:50:14

23 Q. Would this be a unit report that you 10:50:15

24 would -- would have run as part of your duties? 10:50:17

25 MR. PRABHAKAR: Objection. Out of scope. 10:50:19

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1 Commonwealth of Massachusetts  
2 Middlesex, ss.  
3  
4

5 I, P. Jodi Ohnemus, Notary Public  
6 in and for the Commonwealth of Massachusetts,  
7 do hereby certify that there came before me on the  
8 2nd day of February, 2024, the deponent herein, who  
9 was duly sworn by me; that the ensuing examination  
10 upon oath of the said deponent was reported  
11 stenographically by me and transcribed into  
12 typewriting under my direction and control; and  
13 that the within transcript is a true record of the  
14 questions asked and answers given at said  
15 deposition.

16 I FURTHER CERTIFY that I am neither  
17 attorney nor counsel for, nor related to or  
18 employed by any of the parties to the action  
19 in which this deposition is taken; and, further,  
20 that I am not a relative or employee of any  
21 attorney or financially interested in the outcome  
22 of the action.  
23  
24  
25

IN WITNESS WHEREOF I have hereunto set my  
hand and affixed my seal of office this  
10th day of February, 2024, at Waltham.



P. Jodi Ohnemus, RPR, RMR, CRR,  
CSR, Notary Public,  
Commonwealth of Massachusetts  
My Commission Expires:  
3/3/2028